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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2011-174

12 **LINDA TERESA MORGAN**
13 a.k.a. **LINDA TERESA CAULA**
15478 Montreal Street
14 San Leandro, California 94579

A C C U S A T I O N

15 Registered Nurse License No. 258267

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about July 31, 1975, the Board of Registered Nursing issued Registered Nurse
24 License Number 258267 to Linda Teresa Morgan (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 December 31, 2010, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing (Board),

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 STATUTORY PROVISIONS

4 4. Section 2750 of the Business and Professions Code provides, in pertinent part, that
5 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
6 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
7 Practice Act.

8 5. Section 2764 of the Business and Professions Code provides, in pertinent part, that
9 the expiration of a license shall not deprive the Board of jurisdiction to proceed with a
10 disciplinary proceeding against the licensee or to render a decision imposing discipline on the
11 license. Under section 2811(b) of the Code, the Board may renew an expired license at any time
12 within eight years after the expiration.

13 6. Section 2761 of the Business and Professions Code states:

14 "The board may take disciplinary action against a certified or licensed nurse or deny an
15 application for a certificate or license for any of the following:

16 "(a) Unprofessional conduct . . .

17 " . . .

18 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
19 functions, and duties of a registered nurse, in which event the record of the conviction shall be
20 conclusive evidence thereof.

21 . . .

22 7. Section 2762 of the Business and Professions Code states:

23 "In addition to other acts constituting unprofessional conduct within the meaning of this
24 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
25 chapter to do any of the following:

26 "

27 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
28 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
5 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
6 or the possession of, or falsification of a record pertaining to, the substances described in
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
8 thereof.

9 . . .
10 8. Section 490 of the Business and Professions Code provides, in pertinent part, that a
11 board may suspend or revoke a license on the ground that the licensee has been convicted of a
12 crime substantially related to the qualifications, functions, or duties of the business or profession
13 for which the license was issued.

14 9. California Code of Regulations, title 16, section 1444, provides, in pertinent part, that
15 a conviction or act shall be considered to be substantially related to the qualifications, functions
16 or duties of a registered nurse if to a substantial degree it evidences the present or potential
17 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or
18 welfare.

19 10. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
20 the Board may request the administrative law judge to direct a licensee found to have committed
21 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
22 investigation and enforcement of the case.

23 FIRST CAUSE FOR DISCIPLINE
24 (Conviction of a Substantially Related Crime)

25 11. Respondent is subject to disciplinary action under Business and Professions Code
26 sections 490 and 2761(f), as defined by California Code of Regulations, title 16, section 1444, in
27 that respondent has been convicted of a crime substantially related to the qualifications, functions
28 or duties of a registered nurse, the circumstances are as follows:

1 a. On or about June 9, 2006, in a criminal proceeding entitled People of the State of
2 California v. Linda Teresa Morgan in Alameda County Superior Court, Case No. 392285, the
3 respondent was convicted by her plea of nolo contendere for violating Vehicle Code section
4 23152(a), 23152(a), a misdemeanor (driving under the influence).

5 b. The circumstances surrounding the conviction are that on or about March 17,
6 2006, officers from the California Highway Patrol responded to the scene of a traffic collision.
7 The officers contacted the respondent as an involved party in the traffic collision. While
8 questioning the respondent about the collision, one officer smelled the strong odor of an alcoholic
9 beverage emitting from respondent's breath and person. The respondent admitted to the officer
10 that she had consumed two alcoholic beverages. The officer asked respondent to perform a series
11 of field sobriety tests, which she failed to perform as explained and demonstrated. The officer
12 administered a Preliminary Alcohol Screening (PAS) test. The breath samples that the respondent
13 provided for the PAS test reported the presence of ethyl alcohol with readings of .19 % and .17%.
14 Thereafter, based on the results of the field sobriety tests, the PAS test, and the officer's personal
15 observations of the respondent, the officer placed the respondent under arrest for driving while
16 under the influence of an alcoholic beverage.
17
18

19 c. On or about June 9, 2006, the respondent was placed on court probation for 3 years,
20 ordered to serve 10 days in the County Jail, ordered to pay a \$1485.00 fine, and ordered to attend
21 and complete a Driving Under the Influence school.
22

23 SECOND CAUSE FOR DISCIPLINE

24 (Use of an Alcoholic Beverages to an Extent or in a
Manner Dangerous or Injurious to Herself or Others)

25 12. Respondent is subject to disciplinary action under Business and Professions Code
26 section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions
27 Code section 2762(b), in that on or about March 17, 2006 respondent used alcoholic beverages to
28

1 an extent or in a manner dangerous or injurious to herself or others, as set forth in paragraph 11,
2 above.

3 THIRD CAUSE FOR DISCIPLINE
4 (Conviction of an Alcohol Related Crime)

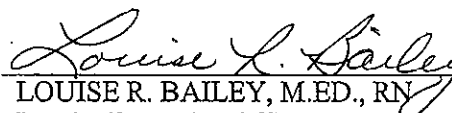
5 13. Respondent is subject to disciplinary action under Business and Professions Code
6 section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions
7 Code section 2762(c), in that respondent was convicted of a crime involving the consumption of
8 alcoholic beverages, and set forth in paragraph 11, above.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 258267, issued to Linda
13 Teresa Morgan.
14 2. Ordering Linda Teresa Morgan to pay the Board of Registered Nursing the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 125.3;
17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 9/1/10


20 LOUISE R. BAILEY, M.ED., RN
21 Interim Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant

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